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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/768,844	01/23/2001	Sachin G. Deshpande	TAL/7146.096 (SLA 0337)	1490
7590 01/13/2005 CHERNOFF, VILHAUER, McCLUNG & STENZEL L.L.P. 1600 ODS Tower 601 S W Second Avenue Portland, OR 97204			EXAMINER SHEW, JOHN	
			ART UNIT 2664	PAPER NUMBER

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/768,844

Applicant(s)

DESHPANDE, SACHIN G.

Examiner

John L. Shew

Art Unit

2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07/30/2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8, 14-17 and 19-21 is/are allowed.
- 6) ☒ Claim(s) 9-13 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01/23/2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Specification

Claim Objections

1. Claim 18 is objected to because of the following informalities:

Claim 18, line 2 cites "rates for said first layer" has no antecedent basis since only one rate is associated to the first layer.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 9-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Ammar et al.

Claim 9, Ammar teaches a method of transferring data (column 1 lines 9-15) referenced by transmission of a video signal, comprising the steps of (a) receiving data of a first layer of a first medium (FIG. 1A) Router 14b receiving I-frames, (b) receiving data of a second layer of said first medium (FIG. 1A) Router 14b receiving P-frames, (c) in response to transmission of a datum of a second medium discontinuing said reception of said second layer of said first medium (FIG. 1A) referenced by Router 14d receiving I-frames and dropping reception of P-frames.

Claim 10, Ammar teaches discontinuing reception of said data of said second layer in the event of at least one of a loss of data exceeding a threshold data loss (TABLE A) referenced by r which is the packet loss rate during a period and threshold R_c where $r \geq R_c$ determines a congestion-condition, and reception of said data of said second layer for a interval less than a threshold reception interval when said transmission of said datum of said second medium is initiated (column 10 lines 10-17) referenced by time interval $T_{c,add}$ which starts after a layer-add experiment and is smaller than the normal default threshold time interval $T_{c,o}$ which is the time a receiver need to remain in the congested state before dropping layer i .

Claim 11, Ammar teaches suppressing an attempt to resume said discontinued reception of data of said second layer during transmission of said second medium

(column 10 lines 10-24) referenced by maintaining the receiver in a congested state which blocks resumption of reception of data of the second layer.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ammar as applied to claims 1-4, 7-11 and 14-19 above, and in view of Campbell et al.

Claims 12 and 13, Ammar teaches a method of rate control for transmitting layered video multicast data. Ammar does not teach the use of Real Time Protocol nor Hyper Text Transfer Protocol. Campbell teaches the use of Real Time Protocol for the transmission of video information (FIG. 2, page 4 column 2 lines 14-33) referenced by the RTP in the transmission layer for the transmission of video such as MPEG1. Campbell teaches a second medium is transmitted according to Hyper Text Transfer Protocol (FIG. 2, page 1 column 2 lines 33-37, page 5 column 2 lines 32-42) referenced

by HTML Formatting for the display layer and use of HTTP for data transfer based on available bandwidth.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use RTP and HTTP as transmission control protocols as suggested by Campbell to the layered video multicast system of Ammar for the purpose of allowing web browsers to display video and document data.

Allowable Subject Matter

3. Claims 1-8, 14-17, 19-21 are allowed.

The prior art search did not disclose the reduction or increase of the encoding rate of individual layers of a first transmission medium in response to transmission or non-transmission of a datum of a second medium in accordance with a relationship of a latency of the second medium and quality of the first medium. The prior art discloses the encoding rate of the transmission medium is varied with the number of layers added or deleted to the transmission medium, but not the encoding rate of individual layers within the transmission medium.

Response to Arguments

Regarding the objection of claim 18, the amendment as presented does not overcome the objection. Amended claim 18 has the descriptor word "encoding" deleted but maintains the word "rates". Claim 14 upon which claim 18 depends, only describes a single rate associated to the first layer of the first medium. Therefore claim 18 has no antecedent basis since there is no second rate associated to the first layer of the first medium. Claim 17 does not have the same objection since the word "rates" pertain to the rates of both the first and second layer of the first medium.

Applicant's argument over rejection of claims 9-13 has been fully considered but they are not persuasive.

Regarding the argument traversing the rejection of Claim 9, the applicant is directed to the rejection with respect to Ammar Fig. 1A. The arguments pertain to Ammar Fig. 1B which is not presented in the rejection. The argument that the medium is associated to a particular media type such as video, audio etc. is not a limitation in the claim. The medium is construed to be a physical medium of which a first medium and a second medium are separate physical transmission lines.

Regarding the argument traversing the rejection of Claims 12 and 13, Campbell discloses the use of RTP and HTTP. The discussion of control pertaining to the use of these protocols are not a limitation in the claims.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L Shew whose telephone number is 571-272-3137. The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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